

**IN THE UNITED STATES DISTRICT COURT FOR
THE SOUTHERN DISTRICT OF WEST VIRGINIA**

HUNTINGTON DIVISION

WALTER KELLY ROWE,

Plaintiff,

v.

CIVIL ACTION NO. 3:04-0681

JAKE CLARK, et al.,

Defendants.

MEMORANDUM OPINION AND ORDER


This action was referred to the Honorable R. Clarke VanDervort, United States Magistrate Judge, for submission to this Court of proposed findings of fact and recommendation for disposition, pursuant to 28 U.S.C. § 636(b)(1)(B). The Magistrate Judge has submitted findings of fact and recommended that the Court dismiss Plaintiff's cause of action as to Corporal Fisher, Officer Thomas, Officer Wiley, Corporal Everseen, Corporal Daniels, and Vickie Greene unless Plaintiff can demonstrate within the period of time allotted for objecting to this Proposed Finding and Recommendation that there was good cause for his failure to serve the above individuals, dismiss this entire action if Plaintiff does not notify the Court by September 5, 2011, that he continues to be interested in proceeding with this case, and if he does notify the Court, refer this matter back to Magistrate Judge VanDervort for further proceedings. Neither party has filed objections to the Magistrate Judge's findings and recommendation.

Accordingly, the Court accepts and incorporates herein the findings and recommendation of the Magistrate Judge. Plaintiff has not demonstrated within the period of time allotted for

objecting to this Proposed Finding and Recommendation that there was good cause for his failure to serve the above individuals nor has he notified the Court by September 5, 2011, that he continues to be interested in proceeding with this case. The Court therefore **DISMISSES** Plaintiff's cause of action as to Corporal Fisher, Officer Thomas, Officer Wiley, Corporal Everseen, Corporal Daniels, and Vickie Greene and **DISMISSES** this entire action, consistent with the findings and recommendation.

The Court **DIRECTS** the Clerk to forward copies of this written opinion and order to all counsel of record, and any unrepresented parties.

ENTER: September 15, 2011



ROBERT C. CHAMBERS
UNITED STATES DISTRICT JUDGE